

Message

From: Bohan, Suzanne [bohan.suzanne@epa.gov]
Sent: 4/12/2018 4:33:06 PM
To: Benevento, Douglas [benevento.douglas@epa.gov]
Subject: RE: Town of Parker Dumping Oil soaked aggregate in Cherry Creek watershed

Doug –

Deliberative Process / Ex. 5

Suzanne

From: Benevento, Douglas
Sent: Thursday, April 12, 2018 10:25 AM
To: Bohan, Suzanne <bohan.suzanne@epa.gov>
Subject: FW: Town of Parker Dumping Oil soaked aggregate in Cherry Creek watershed

Deliberative Process / Ex. 5

From: Privacy Info in Enforcement Records / Ex. 7(c)
Sent: Thursday, April 12, 2018 9:00 AM
To: Benevento, Douglas <benevento.douglas@epa.gov>
Subject: Re: Town of Parker Dumping Oil soaked aggregate in Cherry Creek watershed

Doug,

Good morning hope your trip to Montana is going well.

I did drop off the photos and samples as I told you I would this past Monday with Diane.

I am looking forward to hearing from you next week after you have 10-15 minutes to look these over.

To the best of my knowledge you will be the 1st person from the EPA or CDPHE to see these photos that come from different location around Parker where this OSA has entered the Cherry Creek storm water system.

Talk to you next week.

Have a great day

Thanks

Privacy Info in Enforcement Records / Ex. 7(c)

On Apr 5, 2018, at 11:50 AM, Privacy Info in Enforcement Records / Ex. 7(c) wrote:

Doug, Larry,

Good afternoon.

This is to inform each of you about the Town of Parker(ToP) dumping hundreds of pounds of oil-soaked aggregate (OSA) into the Cherry Creek watershed and the response or lack of one from Patrick Pfaltzgraff and his staff. I have included in the correspondence photos showing violations and their location on a map. This is not an isolated illicit discharge as you can see on many of these photos across the ToP. A good partner would report these illicit discharges to the storm water system/Cherry Creek watershed to CDPHE. To the best of my knowledge NONE of these have been reported before the complaint to the EPA hotline.

As stated in the Clean Water Act Enforcement Action Plan October 15, 2009:

State enforcement response to serious violations, whether at large or smaller facilities, is not what it should be. Without complete and accurate data, it is hard to know how critical the noncompliance at smaller facilities is to water quality. It is likely that these smaller but more numerous sources are of critical concern.

After a cursory review on the MS4 permit, the ToP has violated too many section to list here. I am currently in the process of marking up a generic MS4 showing the violations by the ToP and will forward once this through review is complete.

The ToP and the CDPHE seem to fit in the above statement therefore my vigorous follow up on this incident.

Timeline:

This situation started in August of 2017 when the ToP engaged with a contractor to chip seal many streets in the town. Right after the job was complete abnormally high amounts of oil emulsion coated rocks were seen spalling off the road ending up in the curbs, sidewalks, adjacent planting/grass, and storm sewer system. The ToP was notified and their response was it was normal and not to worry we will talk to staff into and take care of it.

Many times I called the ToP to let them know the problem was getting worse with no response.

Fast Forward to March 22, 2018 we I reported this to the EPA hotline and sent a letter to the ToP and cc'd r8eisc@epa.gov and the local paper who reports on ToP activities. Later that day I did receive a response from the ToP saying they would look into the problem. It appears that the ToP only acted after the email from Nathan Moore with CDPHE, with the report from a citizen that went into the ToP's CDPHE official file!

The ToP did respond to Mr. Moore's email which I found on the Colorado Environmental Records page which Mr. Moore provide to me.

The initial report was this is a very isolated issue as reported by town ToP workers, the site was never inspected by the Storm Water manager to the best of my knowledge because a P.E. with more than 1 year of experience would understand that this is much larger issue, but someone with little or no training in these types of matters would report no problem, which is what happened in this case.

Once I was able to read what the ToP Storm Water Manager a P.E. reported and the email that was sent to me from the ToP Public Works Manager (attached) I came to understand that the ToP was trying to minimize this issue. Currently we have NO idea on the amount of OSA that has ended up in the Cherry Creek watershed and the adjacent landscaping. The report in your database indicates that 22 5-gallon buckets or approximately 1,430 pounds of OSA were found in storm water inlet boxes which is much more that the originally reported 1 5- gallon bucket per inlet box, I believe that there are 16+/- inlets boxes in the area of this illicit discharge, which would be 16 buckets or 1,040 pounds difference, this is major difference, 70% more was found after the ToP initial report. After the initial report the CDPHE Unit Manager stated in an email to the ToP the following:

"The division is just going to file this email chain in the Parker MS4 file and no additional follow up is planned at this time."

I then called the CDPHE Unit Manager in charge of this incident and he informed me that no further activities were planned and this was due in large part to the restraints in resources he has.

I then emailed the Director, Water Quality Control Division when would be a good to the talk on the phone, I received a reply from Patrick Pfaltzgraff to call at my convenience, which I did the next day

Mr. Pfaltzgraff and I talked for about 10 minutes and I asked him if any inspection by his department was going to happen, his response was no and in large part due to resources restrictions, which is code for not high enough priority! I then asked if we could meet at the site he said no. I told him that I had samples and many photos showing the extent of this incident, Mr. Pfaltzgraff response was: "we will note that" and then he said he must get off to go to a meeting.

This brings me to my request to both of you, as your positions are responsible to the public for keeping our environment safe and clean from this type of problem.

Items that need your attention/action:

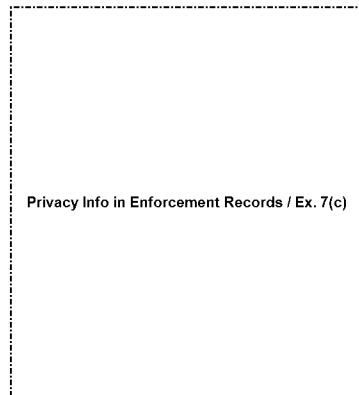
- 1) EPA and CDPHE inspectors in conjunction make unannounced site visits to the ToP and preform full inspections and sampling at ALL locations where the storm sewers enter the Cherry Creek watershed for ANY signs of any of these materials used in this chip seal process.
- 2) ToP to complete remediation of any materials found.
- 3) If any violations are found that fines will be levied against the party/ parties responsible.

- 4) Determine/request review of this chip seal process to ensure it is fit for purpose in EPA Region 8 and that DOT/CDOT issue requirements on this process if it is found fit for purpose.
- 5) Include findings in the ToP MS4 permit for future consideration.

Samples from various storm water areas and many photos including mapped locations on this area and others in the ToP on a thumb drive are being delivered to Doug's office.

I would like to visit with both of you about this matter as my professional opinion the ToP has not be forth coming with respect to their requirements on their MS4 permit.

Regards,



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